

1 HOWARD B. GROBSTEIN  
hbgtrustee@gtllp.com  
2 9363 Magnolia Avenue  
Riverside, California 92503  
3 Telephone: 951-234-0951  
4 Facsimile: 951-684-2363

5 Chapter 7 Trustee

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7  
8 **UNITED STATES BANKRUPTCY COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10 **RIVERSIDE DIVISION**

11 In re:

12 **ALMA SERNA ARREOLA,**

13 Debtor.

Case No. **6:22-bk-13661-SY**

Chapter 7

**NOTICE OF MOTION AND MOTION  
FOR AN ORDER AUTHORIZING THE  
CHAPTER 7 TRUSTEE TO LEAVE  
ESTATE ASSETS UNADMINISTERED;  
DECLARATION OF HOWARD B.  
GROBSTEIN IN SUPPORT THEREOF**

[NO HEARING REQUIRED]

19 **TO THE HONORABLE SCOTT H. YUN, UNITED STATES BANKRUPTCY JUDGE;**  
20 **THE OFFICE OF THE UNITED STATES TRUSTEE; THE DEBTOR AND ALL**  
21 **INTERESTED PARTIES:**

22 **PLEASE TAKE NOTICE** that Howard B. Grobstein, Chapter 7 Trustee (“Trustee”) for  
23 the bankruptcy estate (the “Estate”) of Alma Serna Arreola (“Debtor”), hereby submits his motion  
24 (the “Motion”), pursuant to 11 U.S.C. §105 and §554(c), for an order authorizing the Trustee to  
25 leave the Estate’s interest in a wrongful termination claim against MCO, Inc. (“MCO Claim”), and  
26 a personal injury claim against Nike, Inc. (“Nike Claim”) (collectively the “Lawsuits”)  
27 unadministered.

28 ////

1       **PLEASE TAKE FURTHER NOTICE** that the relief requested in the Motion is based on  
2 the Motion, this Notice, the attached Memorandum of Points and Authorities and Declaration of  
3 Howard B. Grobstein, and any additional evidence and arguments that may be presented at or prior  
4 to any hearing on the Motion.

5       **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule 9013-  
6 1(o), the Trustee is requesting that the Bankruptcy Court grant the relief requested in the Motion  
7 upon notice and an opportunity to request a hearing. Local Bankruptcy Rule 9013-1(o)(1) requires  
8 that any response to the Motion and request for hearing must be filed with the U.S. Bankruptcy  
9 Court located at 3420 Twelfth Street, Riverside, California 92501, and served on the Trustee  
10 Howard B. Grobstein, at the address provided in the upper left-hand corner of this document, and  
11 the Office of the United States Trustee located at 3801 University Avenue, Suite 720, Riverside,  
12 California 92501, within 14 days after the date of service of this Notice, plus 3 additional days if  
13 the notice was served by mail, electronically, or pursuant to F.R.Civ.P. Rule 5(b)(2)(D), (E), or  
14 (F). Your opposition must comply with LBR 9013-1(f) and (o). The Trustee will set a hearing  
15 date and send out notice thereto if any such response is timely received. No hearing will be held if  
16 no response and request for hearing is received.

17       **PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Bankruptcy Rule 9013-  
18 (1)(h), failure to file and serve a timely response may be deemed consent to the granting of this  
19 Motion.

20 DATED: January 27, 2023

21  
22 By: 

23       HOWARD B. GROBSTEIN  
24       Chapter 7 Trustee  
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**I. BACKGROUND FACTS**

1  
2 1. On September 29, 2022 (the “Petition” Date”), Alma Serna Arreola (“Debtor”)  
3 filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code, which was assigned Case No.  
4 6:22-bk-13661-SY. Shortly thereafter, Howard B. Grobstein (“Trustee”), being duly qualified,  
5 was appointed as Chapter 7 Trustee of the Debtor’s bankruptcy estate.

6 2. The Debtor included as an asset on her Schedule B, the MCO Claim with an  
7 unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption  
8 in the MCO Claim in the amount of \$13,800.00 under 11 U.S.C. § 522(d)(5).

9 3. The Debtor included as an asset on her Schedule B, the Nike Claim with an  
10 unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption  
11 in the Nike Claim in the amount of \$27,900.00 under 11 U.S.C. § 522(d)(11)(D).

12 4. Based upon his investigation into the value, likelihood of recovery, and taking into  
13 consideration the exemptions claimed by the Debtor, the Trustee has determined that the cost of  
14 litigating the Lawsuits may result in the estate becoming administratively insolvent, however, he  
15 would like to ensure that in the event the Debtor is able to recover an amount exceeding the  
16 Debtor’s claimed exemptions from the Lawsuit, the Debtor’s bankruptcy estate would retain an  
17 interest in the recovery.

18 5. There are no other assets of the bankruptcy estate, and the Trustee is prepared to  
19 file his no asset report following entry of an order approving the within motion.

20  
21 **II. ARGUMENT**

22 Section 554(c) of the Bankruptcy Code states: “Unless the court orders otherwise, any  
23 property scheduled under section 521(a)(1) of this title not otherwise administered at the time of  
24 the closing of a case is abandoned to the debtor and administered for purposes of section 350 of  
25 this title.”

26 Section 554(d) of the Bankruptcy Code states: “Unless the court orders otherwise,  
27 property of the estate that is not abandoned under this section and that is not administered in the  
28 case remains property of the estate.”

1 The Trustee respectfully moves this Court for entry of an order providing that the  
2 Lawsuits shall remain unadministered property of the Estate, even after this case is closed.

3 The Trustee does not wish to keep this chapter 7 case open indefinitely allowing  
4 administrative fees to further accrue and with no certainty of recovery for the Estate from the  
5 Lawsuits. However, the Trustee also does not wish to abandon the Lawsuits, in the event recovery  
6 is possible at a later time. Therefore, the Trustee believes that it is in best interests of the Estate to  
7 leave the Lawsuits unadministered, and, if recovery becomes likely, the Trustee will move to  
8 reopen the case to administer the asset at that time. Upon entry of an order approving this Motion,  
9 the Trustee will proceed with the filing of his no asset report in this case.

10  
11 **III. CONCLUSION**

12 Based upon the foregoing, the Trustee respectfully requests that the Court enter an order:

- 13 1. Approving the Motion;  
14 2. Authorizing the Trustee to leave the Lawsuits unadministered, to be administered in  
15 the future, if and when the asset becomes collectable;  
16 3. Granting such other and further relief as the Court deems just and proper.

17 Dated: January 27, 2023

18  
19 By: 

20 HOWARD B. GROBSTEIN  
Chapter 7 Trustee



**DECLARATION OF HOWARD B. GROBSTEIN**

I, Howard B. Grobstein, declare as follows:

1. I am the duly appointed and acting Chapter 7 trustee for the bankruptcy estate of Arthur Robert Townsend, Jr. and Janis Irene Townsend ("Debtors"). As such, I have personal knowledge of the matters set forth herein and if called as a witness I could and would testify competently thereto.

2. On September 29, 2022 (the "Petition" Date"), Alma Serna Arreola ("Debtor") filed a Voluntary Petition under Chapter 7 of the Bankruptcy Code, which was assigned Case No. 6:22-bk-13661-SY. Shortly thereafter, being duly qualified, I was appointed as Chapter 7 Trustee of the Debtor's bankruptcy estate.

3. The Debtor included as an asset on her Schedule B, the MCO Claim with an unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in the MCO Claim in the amount of \$13,800.00 under 11 U.S.C. § 522(d)(5).

4. The Debtor included as an asset on her Schedule B, the Nike Claim with an unknown value. On January 3, 2023, the Debtor amended her Schedule C to claim an exemption in the Nike Claim in the amount of \$27,900.00 under 11 U.S.C. § 522(d)(11)(D).

5. Based upon my investigation into the value, likelihood of recovery, and taking into consideration the exemptions claimed by the Debtor, I have determined that the cost of litigating the Lawsuits may result in the estate becoming administratively insolvent, however, I would like to ensure that in the event the Debtor is able to recover an amount exceeding the Debtor's claimed exemptions from the Lawsuit, the Debtor's bankruptcy estate would retain an interest in the recovery.

6. There are no other assets of the bankruptcy estate, and I am prepared to file my no asset report following entry of an order approving the within motion.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that this declaration was executed on January 27, 2023, at Malibu, California.

  
HOWARD B. GROBSTEIN  
Chapter 7 Trustee

## PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is: **P.O. Box 253, Woonsocket, RI 02895**

A true and correct copy of the foregoing document entitled: **NOTICE OF MOTION AND MOTION FOR AN ORDER AUTHORIZING THE CHAPTER 7 TRUSTEE TO LEAVE ESTATE ASSETS UNADMINISTERED; DECLARATION OF HOWARD B. GROBSTEIN IN SUPPORT THEREOF and PROOF OF SERVICE** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

**1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** – Pursuant to controlling General Order(s) and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On January 30, 2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following person(s) are on the Electronic Mail Notice List to receive NEF transmission at the email address(es) indicated below:

- Arvind Nath Rawal on behalf of Creditor Exeter Finance LLC c/o AIS Portfolio Services, LLC arawal@aisinfo.com
- Benjamin Heston on behalf of Debtor Alma Serna Arreola bhestonecf@gmail.com  
benheston@recap.email, NexusBankruptcy@jubileeek.net
- Howard B Grobstein (TR) hbgttrustee@gtllp.com C135@ecfcbis.com
- United States Trustee (RS) ustpreion16.rs.ecf@usdoj.gov

**2. SERVED BY UNITED STATES MAIL:**

On January 30, 2023, I served the following person(s) and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

<u>Debtor</u>	Honorable Scott H. Yun
Alma Serna Arreola	United States Bankruptcy Court
149 Sir Damas Drive	Central District of California
Riverside, CA 92507-6915	3420 Twelfth Street, Suite 345
	Riverside, CA 92501-3819

<u>Counsel re: MCO, Inc.</u>	<u>Counsel re: Nike, Inc.</u>
Jihad M. Smali	Law at Your Side
SMALI & ASSOCIATES	555 W. 5 <sup>th</sup> Street, 35 <sup>th</sup> Floor
2114 North Broadway, Suite 200	Los Angeles, CA 90013
Santa Ana, CA 92706	

☒ Service information continued on attached page

**3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on \_\_\_\_\_ I served the following person(s) and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

January 30, 2023  
Date

Denise Weiss  
Printed Name

*Denise Weiss*  
Signature

Label Matrix for local noticing  
0973-6  
Case 6:22-bk-13661-SY  
Central District of California  
Riverside  
Mon Jan 30 08:27:43 PST 2023

Exeter Finance, LLC - c/o AIS Portfolio Service  
4515 N Santa Fe Ave. Dept. APS  
Oklahoma City, OK 73118-7901

Riverside Division  
3420 Twelfth Street,  
Riverside, CA 92501-3819  
*No US Mail Service Copy*

24 Hour Fitness  
Member Services  
PO Box 2689  
Carlsbad, CA 92018-2689

Acima Credit  
9815 South Monroe Street  
4th Floor  
Sandy, UT 84070-4384

(p)BANK OF AMERICA  
PO BOX 982238  
EL PASO TX 79998-2238

Capital Bank N.A.  
One Church Street  
Suite 100  
Rockville, MD 20850-4190

Capital One  
Attn: Bankruptcy  
Po Box 30285  
Salt Lake City, UT 84130-0285

Challenge Financial Services  
1004 West Taft Avenue, Suite 100  
Orange, CA 92865-4143

Exeter Finance, LLC  
Attn: Bankruptcy  
P.O. Box 166008  
Irving, TX 75016-6008

Jenna Village Apartments  
488 Aster Street #200  
Springfield, OR 97478

(p)OPORTUN INC  
PO BOX 560880  
THE COLONY TX 75056-0880

Progressive Leasing  
807 South Flower Street  
Los Angeles, CA 90017-4607

(p)SMILEDIRECTCLUB  
ATTN LEGAL  
414 UNION ST 8TH FLOOR  
NASHVILLE TN 37219-1757

Smile Direct Club  
4910 Hammer Avenue  
Eastvale, CA 91752-1046

Spectrum  
PO Box 60074  
City of Industry, CA 91716-0074

Summer Meadows Apartment  
3429 Rustin Avenue  
Riverside, CA 92507-3894

United States Trustee (RS)  
3801 University Avenue, Suite 720  
Riverside, CA 92501-3255  
*No US Mail Service Copy*

Verizon Wireless  
Attn: Bankruptcy Administration  
500 Technology Drive, Suite 500  
Saint Charles, MO 63304-2225

Alma Serna Arreola  
149 Sir Damas Drive  
Riverside, CA 92507-6915

Benjamin Heston  
100 Bayview Circle, Suite 100  
Newport Beach, CA 92660-2963  
*No US Mail Service Copy*

Howard B Grobstein (TR)  
Grobstein Teeple, LLP  
9363 Magnolia Avenue  
Riverside, CA 92503-3747  
*No US Mail Service Copy*

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Bank of America  
PO Box 982235  
El Paso, TX 79998

Oportun  
Attn: Bankruptcy  
Po Box 4085  
Menlo Park, CA 94026

Smile Direct Club  
414 Union Street Suite 800  
Nashville, TN 37219

End of Label Matrix

Mailable recipients 21

Bypassed recipients 0

Total 21